

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

KING MWASI,

Plaintiff,

v.

LUCKEN, *et al.*,

Defendants.

Case No. 1:21-cv-00702-JLT-BAM (PC)

**ORDER GRANTING DEFENDANTS' MOTION
TO MODIFY DISCOVERY AND SCHEDULING
ORDER**

(ECF No. 53)

Discovery Deadline: **June 17, 2024**

Dispositive Motion Deadline: **August 26, 2024**

Plaintiff King Mwasi ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's first amended complaint against Defendants Lucken, Sepeda, and Blanco for excessive force in violation of the Eighth Amendment.

Pursuant to the Court's January 19, 2023 discovery and scheduling order and October 10, 2023 order granting Plaintiff's second unopposed motion to modify the discovery and scheduling order, the deadline for completion of discovery is April 16, 2024, and the deadline for filing all dispositive motions (other than a motion or summary judgment for failure to exhaust) is June 27, 2024. (ECF Nos. 41, 50.)

Currently before the Court is Defendants' motion to modify discovery and scheduling order, filed March 26, 2024. (ECF No. 53.) Defendants state that good cause exists for the request because new defense counsel has just substituted in as counsel of record on March 18, 2024 and needs time to become familiar with the case file, including Plaintiff's voluminous

1 central file and medical records, and to conduct discovery, and Defendants have had difficulty
2 scheduling Plaintiff's deposition due to logistical constraints outside of Defendants' control. Due
3 to Plaintiff's hearing and speech issues that require accommodation, Defendants anticipate
4 needing to conduct Plaintiff's deposition in person at San Quentin State Prison, with a court
5 reporter who is willing to appear in person with the necessary gate clearance, and who can offer
6 real-time transcription services to accommodate Plaintiff's hearing and speech issues. Locating a
7 willing and cleared court reporter with these services, as well as coordinating available dates with
8 San Quentin's litigation coordinator, has been difficult. Defendants have noticed and continued
9 Plaintiff's deposition at least three times. While the discovery and dispositive motions deadlines
10 have been extended twice at Plaintiff's request, this is Defendants' first request for an extension
11 of these deadlines. Defendants request that the discovery deadline be extended from April 16,
12 2024 to June 15, 2024 and the dispositive motion deadline be extended from June 27, 2024 to
13 August 26, 2024. (*Id.*)

14 Plaintiff has not yet had an opportunity to file a response, but the Court finds a response is
15 unnecessary. The motion is deemed submitted. Local Rule 230(l).

16 Having considered the request, the Court finds good cause to grant the requested
17 modification of the discovery and scheduling order. Fed. R. Civ. P. 16(b)(4). Defendants are
18 unable to meet the current deadline for taking Plaintiff's deposition due to the logistical issues
19 required to accommodate Plaintiff's hearing and speech issues. It appears Defendants were
20 diligent in attempting to take Plaintiff's deposition before the discovery deadline, and the Court
21 finds that Plaintiff will not be prejudiced by the extension granted here. As the proposed deadline
22 of June 15, 2024 falls on a Saturday, the Court further finds it appropriate to extend the discovery
23 deadline to June 17, 2024.

24 Accordingly, IT IS HEREBY ORDERED that:

25 1. Defendants' motion to modify the scheduling order, (ECF No. 53), is GRANTED, as
26 follows:

27 a. The deadline for completion of all discovery, including filing all motions to
28 compel discovery, is extended from April 16, 2024 to **June 17, 2024**;

b. The deadline for filing all dispositive motions (other than a motion for summary judgment for failure to exhaust) is extended from June 27, 2024 to **August 26, 2024;**

2. All other requirements set forth in the Court's January 19, 2023 discovery and scheduling order, (ECF No. 41), remain in place; and

3. **A request for an extension of a deadline set in this order must be filed on or before the expiration of the deadline in question and will only be granted on a showing of good cause.**

IT IS SO ORDERED.

Dated: March 27, 2024

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE